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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

FAXED

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Attorneys for Defendants
CIT Group Inc.
Student Loan Xpress, Inc.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'08 CV 0846 J JMA

FABRIZIO BALESTRI, Plaintiff, v. CIT GROUP, INC., STUDENT LOAN XPRESS, INC., AND DOES 1 THROUGH 30, INCLUSIVE, Defendants.	Case No.: __________ **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(B)**

TO THE CLERK OF THE SOUTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendants CIT Group Inc., incorrectly identified in the complaint as CIT Group, Inc. ("CIT") and Student Loan Xpress, Inc., ("SLX") (collectively "Defendants") hereby remove to this Court the state court action described below. In support of this Notice, Defendants state as follows:

1. Complaint. Plaintiff Fabrizio Balestri filed their Complaint for Damages on April 11, 2008, in the Superior Court for the County of San Diego, entitled *Fabrizi Balestri v. CIT Group, Inc., Student Loan Xpress, Inc.*, No. 37-2008-0081786-CU-BC-CTL. Plaintiff asserts claims for damages allegedly resulting from a breach of contract during plaintiff's employment and a violation of Labor Code section 201. Plaintiff seeks compensatory damages, waiting time penalties, pre-judgement interest, and costs. (Prayer for Relief). A copy of the complaint is attached to this Notice as Exhibit A.

2. Basis for Jurisdiction in this Court. This action is a civil action of which this Court has jurisdiction under 28 U.S.C. § 1332(a), and is one that may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, as set forth below. (Prayer for Relief, Compl. ¶ 15, 21, 24).

a. Citizenship of Plaintiff. Plaintiff is a a resident of the state of California, *see* Compl. ¶ 1, and therefore on information and belief is a citizen of the state of California.

b. Citizenship of Defendants. At the time of the filing of the complaint and at all times since then, Defendant CIT has been a Delaware corporation with its principal place of business in the state of New Jersey. At the time of filing of the complaint and at all times since then, Defendant SLX has been a Delaware corporation with its principal place of business in the state of New Jersey. Defendants have not been incorporated in the state of California, nor are they otherwise citizens of California.

c. Amount in Controversy. Plaintiff alleges damages in excess of $75,000. Specifically, the complaint alleges that plaintiff should have been paid wages of $1,675,000 and waiting time penalties of at least $137,671.23. (Compl. ¶ 24).

d. Removal is Timely. A notice of removal may be filed within thirty (30) days after a Defendant receives a copy of an amended pleading, motion, or other paper from which it may be ascertained that the case is removable. 28 U.S.C. § 1446 (b). Defendants were served with a summons and a complaint in this action on April 17, 2008. Accordingly, Defendants have until May 19, 2008, to remove this action, and this Notice of Removal is timely filed within the thirty days allotted for removal by 28 U.S.C. § 1446(b).

e. Unanimity of Defendants. Both Defendants join in and consent to the removal of this action to this Court.

3. Pleadings and Process. Under 28 U.S.C. § 1446 (a), Defendants are required to attach to this Notice a "copy of all process, pleadings, and orders served upon" it. A copy of the summons and the complaint are attached as Exhibit A. Defendants' Answer is attached as Exhibit B.

Dated: May 9, 2008

SIDLEY AUSTIN LLP
Max C. Fischer
Aimee G. Mackay
Brendan P. Sheehey

By: ______________________
Aimee G. Mackay
Attorney for Defendants
CIT Group Inc.
Student Loan Xpress, Inc.

Ex. A

MICHAEL A. CONGER, ESQUIRE (State Bar #147882)
LAW OFFICE OF MICHAEL A. CONGER
16236 San Dieguito Road, Suite 4-14
Mailing: P.O. Box 9374
Rancho Santa Fe, California 92067
Telephone: (858) 759-0200
Facsimile: (858) 759-1906

CIVIL BUSINESS OFFICE 9
2008 APR 11 P 3:23

Attorney for Plaintiff Fabrizio Balestri

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

FABRIZIO BALESTRI,

Plaintiff,

v.

CIT GROUP, INC., STUDENT LOAN XPRESS, INC., and DOES 1 to 30, inclusive,

Defendants.

CASE NO: 37-2008-00081786-CU-BC-CTL

COMPLAINT FOR BREACH OF CONTRACT AND VIOLATION OF LABOR CODE SECTION 201

1. Fabrizio Balestri ("BALESTRI") is an individual residing in San Diego, California.

2. Defendant CIT Group, Inc. ("CIT") is a Delaware corporation doing business in San Diego, California.

3. Defendant STUDENT LOAN XPRESS, INC. ("SLX"), is the successor to Educational Lending Group, Inc. SLX is Delaware Corporation with its principle place of business in San Diego, California, and is a wholly-owned subsidiary of CIT.

4. The true names or capacities, whether individual, corporate, associate, or otherwise, of defendants DOES 1 to 30, inclusive, are unknown to plaintiff, who therefore sues said defendants by such fictitious names.

5. Plaintiff is informed and believes and thereon alleges that each of the defendants designated herein as a DOE is responsible in some manner for the events and happenings herein

referred to, and caused injury and damages proximately thereby to plaintiff as herein alleged. Plaintiff will seek leave of court to amend this complaint to set forth the true names and capacities of such named defendants when their identities become known to him.

6. Plaintiff is informed and believes and thereon alleges that each defendant named in this action, including DOE defendants, at all relevant times, was the agent, ostensible agent, servant, employee, representative, assistant, joint venturer, and/or co-conspirator of each of the other defendants, and was at all times acting within the course and scope of his, her, or its authority as agent, ostensible agent, servant, employee, representative, joint venturer, and/or co-conspirator, and with the same authorization, consent, permission or ratification of each of the other defendants.

7. On January 4, 2005, BALESTRI, SLX (the successor to Educational Lending group, Inc.), and CIT entered into a three-year employment agreement, a true and correct copy of which is attached at Exhibit 1 ("the January 4, 2005 agreement").

8. On January 10, 2006, the parties modified paragraph six of their January 4, 2005 agreement and entered into a "Retention Bonus Plan." A true and correct copy of that agreement is attached at Exhibit 2 (the "Retention Bonus Plan" agreement).

9. On May 24, 2007, CIT and SLX terminated BALESTRI without cause (as that term is defined at page 3 of in the parties' January 4, 2005 agreement).

FIRST CAUSE OF ACTION - BREACH OF CONTRACT

(Against CIT, SLX and Does 1-10)

10. BALESTRI incorporates by reference and realleges paragraphs 1 through 9 as though fully set forth herein.

11. Pursuant to the terms of the parties' January 4, 2005 employment agreement, if BALESTRI was terminated without cause the defendants agreed to pay BALESTRI, "in a single lump sum . . . an amount equal to one and one half times the sum of (i) [BALESTRI's] highest annual base salary . . ., plus (ii) the amount of the annual bonus [he] earned during the [2006] calendar year. . . ." (Exh. 1, p. 3, ¶ 8.)

12. Based on BALESTRI's highest base salary and 2006 bonus, he should have been

paid $675,000 by the defendants upon termination without cause but was not.

13. Defendants failed to pay BALESTRI in accordance with paragraph 8 of the parties' January 4, 2005 agreement, thereby breaching that agreement.

14. BALESTRI has performed all terms of the parties' January 4, 2005 agreement.

15. BALESTRI has been damaged by defendants' breach in the amount of $675,000.

SECOND CAUSE OF ACTION - BREACH OF CONTRACT

(Against CIT, SLX and Does 11-20)

16. BALESTRI incorporates by reference and realleges paragraphs 1 through 9 as though fully set forth herein.

17. Pursuant to the Retention Bonus Plan agreement, BALESTRI was entitled to an additional bonus of $1,000,000 if certain targets for loan volume were met.

18. During BALESTRI's employment, the targets were achieved.

19. However, Defendants failed to pay BALESTRI in accordance with the Retention Bonus Plan agreement, thereby breaching that agreement.

20. BALESTRI has performed all terms of the Retention Bonus Plan agreement.

21. BALESTRI has been damaged by defendants' breach in the amount of $1,000,000.

THIRD CAUSE OF ACTION - VIOLATION OF LABOR CODE SECTION 201

(Against CIT, SLX and Does 21-30)

22. BALESTRI incorporates by reference and realleges paragraphs 1 through 21 as though fully set forth herein.

22. Pursuant to Labor Code section 201, upon termination, BALESTRI was, within 72 hours, entitled to be paid $1,675,000 in wages, as defined by Labor Code section 200, by the defendants according to the January 4, 2005 agreement and the Retention Bonus Plan agreement.

23. Defendants failed to pay BALESTRI's wages in compliance with Labor Code section 201.

24. Therefore, pursuant to Labor Code sections 201 and 203, BALESTRI is entitled to recover unpaid wages of $1,675,000, plus waiting time penalties of at least $137,671.23.

WHEREFORE, Plaintiff prays:

1. Compensatory damages,
2. Waiting time penalties;
3. Pre-judgment interest calculated from the date payments were due;
4. Costs; and
5. Such other and further relief as the court determines necessary and proper.

Dated: April 11, 2008

LAW OFFICE OF MICHAEL A. CONGER

By: ______________________
Michael A. Conger
Attorney for Plaintiff

Jury trial demanded.

Education LENDING GROUP, INC.

Education Lending Group, Inc.
12760 High Bluff Drive, Suite 210
San Diego, California 92130-2018

Telephone (858) 617-6080
Facsimile (858) 617-6079

January 4, 2005

Mr. Fabrizio Balestri
985 Windsor Creek Court
Cardiff, CA 92007

Dear Fabrizio:

This letter is being written to you in connection with the execution of an Agreement and Plan of Merger (the "Merger Agreement") between and among Education Lending Group, Inc. ("EDLG"), CIT Group Inc. ("CIT"), and a wholly-owned subsidiary of CIT. You and we have agreed that if the acquisition of EDLG by CIT in the manner contemplated by the Merger Agreement occurs, you will continue in your current position as President and Chief Executive Officer of Student Loan Xpress, Inc. generally on the same basis as governs your current employment but with the additional terms specified below in this letter. Assuming you agree that this letter correctly sets forth the relationship between you and EDLG that we have agreed upon, you should countersign both original copies of this letter in the place provided, retain one fully executed copy for your records and return the other copy to me.

If the acquisition of EDLG by CIT in the manner contemplated by the Merger Agreement occurs, the following additional terms will apply to your employment by EDLG and/or Student Loan Express, Inc. ("SLX") from and after the Effective Time (as defined in the Merger Agreement):

1. *Three-Year Term.* Until and unless terminated by either party, the term of your employment under this letter (the "Employment Period") will commence at the Effective Time and extend through the third anniversary of the Effective Time.

2. *Title and Duties.* You will retain your current title of President and Chief Executive Officer of SLX. You will continue to perform the same duties with respect to SLX that you were performing for SLX during 2004. Unless otherwise directed by the Board of Directors of EDLG, you will continue to report to the Chief Operating Officer of EDLG.

3. *Base Salary.* Your base salary will be at the rate of at least $210,000 per year, payable in accordance with CIT's normal payroll procedures and subject to increase following regular periodic reviews.

4. *Annual Incentive Compensation.* For 2005, you will continue to be entitled to bonuses under EDLG's existing annual bonus program, substantially on the same basis as in effect before the Effective Time.

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Education LENDING GROUP, INC.

5. *Long-Term Incentive Compensation.* During the Employment Period, you will be entitled to participate in CIT's Long-Term Equity Compensation Plan (the "ECP") and be eligible to receive such awards thereunder as CIT may from time to time determine. For the calendar year 2005, you will be entitled to receive grants under the ECP that include at least the following:

(a) A grant of options with a value as of the date of grant, determined on the Black-Scholes method, equal to $315,000 (i.e., one and one-half times your base salary as of the Effective Time) with three-year cliff vesting on the third anniversary of the Effective Time, an exercise price equal to the fair market value of a share of CIT stock on the date of grant, and other terms generally comparable to those applicable to option grants made to other executives under the ECP.

(b) A grant of performance shares for shares of CIT stock with an aggregate value, determined without regard to any restrictions on vesting or transfer, equal to $105,000 (i.e., one-half times your bases salary as of the Effective Time) with vesting and other terms generally comparable to the vesting and other terms applicable to performance share grants made to other executives under the ECP.

6. *Stay Bonus.* If you remain in the employ of EDLG and/or SLX through the third anniversary of the Effective Time, you will be eligible for a stay bonus in an aggregate amount of up to $525,000 (the "Maximum Stay Bonus").

(a) *Time Vested Portion.* One half of the Maximum Stay Bonus (i.e., $262,500) will be available as a time vested stay bonus and will be paid to you within ten days after the third anniversary of the Effective Time if you remain in the employ of EDLG and/or SLX through the third anniversary of the Effective Time.

(b) *Performance Vested Portion.* The second half of the Maximum Stay Bonus (i.e., $262,500) will be available as a performance vested stay bonus and will be paid to you within ten days of the third anniversary of the Effective Time if (i) you remain in the employ of EDLG and/or SLX through the third anniversary of the Effective Time, and (ii) EDLG has achieved the levels of loan originations for calendar years 2005, 2006, and 2007, viewed in the aggregate, that were anticipated in materials provided by EDLG to CIT in December of 2004 (the "Target Originations Level"). If EDLG does not achieve the Target Originations Level, no payment will be made to you under this paragraph (b).

7. *Vacations.* Throughout the Employment Period you will continue to be entitled to at least five weeks of vacation per year, such vacation to be taken in accordance with the EDLG vacation policy as that policy was in effect during 2004.

Education
LENDING GROUP, INC.

8. *Payment upon Termination Without Cause.* If EDLG terminates your employment without cause before the third anniversary of the Effective Time, EDLG will pay to you, subject to your execution of a release of claims in a form reasonably satisfactory to EDLG, in a single lump sum, not more than ten days after the date of your termination, an amount equal to one and one half times the sum of (i) your highest annual base salary during the Employment Period, plus (ii) the amount of the annual bonus you earned during the calendar year immediately preceding the calendar year in which you are terminated without cause. For these purposes, EDLG will have "Cause" to terminate your employment if, as of the date of termination, any of the following circumstances have occurred (and, if reasonably susceptible to cure, remain uncured for 30 days after notice to you from EDLG of an intention to treat the circumstance as Cause for termination) you have (a) materially failed to devote your entire business time, energy, talent, and best efforts to the performance of your duties specified above; (b) been negligent, insubordinate, or disloyal in the performance of your duties specified above; (c) failed to follow direction from the Board of Directors with respect to a specified course of conduct; (d) been convicted of any crime involving an act of dishonesty; or (e) committed an act or series of acts of dishonesty in the course of your employment.

9. *Non-Solicitation.* During the period commencing on the Effective Time and continuing through the third anniversary of the Effective Time (the "Restricted Period"), you shall not (a) solicit, divert, or take away, or attempt to divert or take away, either directly or indirectly, any of EDLG's customers, clients, members, patrons, or any other person with whom you know or have reason to know then has a business or prospective business relationship with EDLG or (b) recruit or solicit any individual who is then an employee or other service provider to EDLG or any individual who was an employee or service provider to EDLG within the then most recent three-month period for employment or retention with you or any person or entity other than the EDLG with whom you are then associated. For purposes of clause (b) of the previous sentence, "recruit or solicit" means directly or indirectly to initiate correspondence, a telephone call, e-mail, or other form of oral, written, or electronic communication or a personal meeting with respect to the retention of such individual or to facilitate any of the foregoing by a third party. For purposes of this Section 9 and Section 10 below, "EDLG" shall be deemed to include EDLG and each direct or indirect subsidiary thereof.

10. *Non-Competition.* During the Restricted Period, you shall not, directly or indirectly, without the prior written consent of the CIT Officers, own, manage, operate, join, control, or participate in the ownership, management, operation, or control of, or be connected as an officer, employee, partner, stockholder, consultant, or otherwise, in any business or organization that directly or indirectly competes with EDLG's Business. For these purposes, the term "EDLG's Business" shall mean student loan origination, servicing, purchasing, selling, and securitization; providing or marketing student loan products,

Education LENDING GROUP, INC.

services, or solutions to students, parents, schools, alumni associations, or similar groups; originating or purchasing guaranteed student loans or consolidation loans; offering or purchasing alternative supplemental loans guaranteed by third-party guarantors; selling originated loans to the secondary market; earning revenue by interest income or otherwise on any of the foregoing loans; offering consolidation loan products; or any other business activity in which EDLG is engaged during the Restricted Period or any business or activity materially related to any of the foregoing.

11. *Equitable Relief.* In addition to other remedies provided by law or equity, upon breach by you of any of the restrictions contained in either of Section 10 or 11 above, EDLG shall be entitled to seek through a court a temporary or permanent injunction against you prohibiting any further breach of any such restrictions.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

(Signature Page Follows)

EDUCATION LENDING GROUP, INC.

12. *Confidentiality*. You remain subject to the terms of the Confidentiality Agreement you have previously executed in favor of EDLG.

Fabrizio, we look forward to your continued employment following the Effective Time.

Sincerely,

Education Lending Group, Inc.

By____________________
DOUGLAS L. FEIST
EVP and Secretary

Agreed this 4th day of January, 2005:

____
FABRIZIO BALESTRI

EDUCATION LENDING GROUP, INC.

12. *Confidentiality.* You remain subject to the terms of the Confidentiality Agreement you have previously executed in favor of ELG.

Fabrizio, we look forward to your continued employment following the Effective Time

Sincerely,

Education Lending Group, Inc.

By: ____________________
DOUGLAS L. FEIST
SVP and Secretary

Agreed this 4th day of January, 2005:

____
FABRIZIO BALESTRI

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
MICHAEL A. CONGER, ESQUIRE (State Bar No. 147882)
LAW OFFICE OF MICHAEL A. CONGER
16236 SAN DIEGUITO ROAD, SUITE 4-14
MAILING ADDRESS: P.O. BOX 9374
RANCHO SANTA FE, CA 92067
TELEPHONE NO.: (858) 759-0200 FAX NO.: (858) 759-1906
ATTORNEY FOR (Name): Fabrizio Balestri

FOR COURT USE ONLY

CIVIL BUSINESS OFFICE 9
2008 APR 11 P 3:23

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
STREET ADDRESS: 330 WEST BROADWAY
MAILING ADDRESS: P.O. BOX 120128
CITY AND ZIP CODE: SAN DIEGO, CA 92112-0128
BRANCH NAME:

CASE NAME: BALESTRI v. CIT GROUP, INC., et al.

CIVIL CASE COVER SHEET
[X] Unlimited (Amount demanded exceeds $25,000)
[ ] Limited (Amount demanded is $25,000 or less)

Complex Case Designation
[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 37-2008-00081786-CU-BC-CTL
JUDGE:
DEPT:

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
[ ] Auto (22)
[ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
[ ] Asbestos (04)
[ ] Product liability (24)
[ ] Medical malpractice (45)
[ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
[ ] Business tort/unfair business practice (07)
[ ] Civil rights (08)
[ ] Defamation (13)
[ ] Fraud (16)
[ ] Intellectual property (19)
[ ] Professional negligence (25)
[ ] Other non-PI/PD/WD tort (35)

Employment
[ ] Wrongful termination (36)
[ ] Other employment (15)

Contract
[X] Breach of contract/warranty (06)
[ ] Collections (09)
[ ] Insurance coverage (18)
[ ] Other contract (37)

Real Property
[ ] Eminent domain/Inverse condemnation (14)
[ ] Wrongful eviction (33)
[ ] Other real property (26)

Unlawful Detainer
[ ] Commercial (31)
[ ] Residential (32)
[ ] Drugs (38)

Judicial Review
[ ] Asset forfeiture (05)
[ ] Petition re: arbitration award (11)
[ ] Writ of mandate (02)
[ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
[ ] Antitrust/Trade regulation (03)
[ ] Construction defect (10)
[ ] Mass tort (40)
[ ] Securities litigation (28)
[ ] Environmental/Toxic tort (30)
[ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
[ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
[ ] RICO (27)
[ ] Other complaint (*not specified above*) (42)

Miscellaneous Civil Petition
[ ] Partnership and corporate governance (21)
[ ] Other petition (*not specified above*) (43)

2. This case [ ] is [X] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [ ] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision
3. Type of remedies sought (*check all that apply*):
   a. [X] monetary b. [ ] nonmonetary; declaratory or injunctive relief c. [ ] punitive
4. Number of causes of action (*specify*): Three (3)
5. This case [ ] is [X] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: April 11, 2008
MICHAEL A. CONGER, ESQUIRE
(TYPE OR PRINT NAME)
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. January 1, 2007]

CIVIL CASE COVER SHEET

Legal Solutions Plus

Cal. Rules of Court, rules 3.220, 3.400-3.403;
Standards of Judicial Administration, § 19

SUM. ONS
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CIVIL ...
2008 APR 11 P 3:23

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CIT GROUP, INC., STUDENT LOAN XPRESS, INC., and DOES 1 to 30, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
FABRIZIO BALESTRI

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
SAN DIEGO SUPERIOR
330 WEST BROADWAY
P.O. BOX 120128
SAN DIEGO, CA 92112-0128

CASE NUMBER: *(Número del Caso):* 37-2008-00081786-CU-BC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
MICHAEL A. CONGER, ESQUIRE — (858) 759-0200 (858) 759-1906
LAW OFFICE OF MICHAEL A. CONGER — Telephone No. Fax No.
16236 SAN DIEGUITO ROAD, SUITE 4-14 (MAILING ADDRESS: P.O. BOX 9374)
RANCHO SANTA FE, CA 92067

DATE: *(Fecha)* APR 11 2008 — Clerk, by *(Secretario)* C. SCHAEFFER, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

SUPERIOR COURT
SAN DIEGO COUNTY, CA

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☐ on behalf of *(specify):*

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify):*

4. ☐ by personal delivery on *(date):*

However, notwithstanding the above, any secondary market purchases in excess of the amounts set forth below for the applicable calendar year will be excluded from the calculation of TDLV:

Calendar Year	Maximum Secondary Market Purchase Volume Amount
2005	$50,000,000
2006	$100,000,000
2007	$100,000,000

In addition, EDLG must, as a component of TDLV, have a minimum SLX Disbursed Loan Volume (defined as Student Loan Xpress Loan Volume disbursed and/or generated) each applicable calendar year or on a cumulative basis, the amounts set forth below:

Calendar Year	SLX Disbursed Loan Volume Amount	*Cumulative*
2005	$1,000,000,000	*N/A*
2006	$1,500,000,000	$2,500,000,000
2007	$1,950,000,000	$4,450,000,000

This letter replaces and supercedes in its entirety paragraph 6, labeled "Stay Bonus", set forth in a letter dated January 4, 2005 from EDLG to you.

Please sign below to confirm your understanding of these arrangements and return to me at your earliest convenience.

EDLG:

EDUCATION LENDING GROUP, INC.
a Delaware corporation

By: [signature]
Vincent Schera
Senior Vice President

Executive:

FABRIZIO BALESTRI

[signature]
Fabrizio Balestri

Apr 23 07 10:50a P. 2

Vincent J. Schera
SVP, Human Resources

CIT Group, Inc.
One CIT Drive
Livingston, NJ 07039
973-740-5347
Fax: 973-597-2089
Vince.Schera@cit.com

CIT

EDUCATION LENDING GROUP, INC.

January 10, 2006

Fabrizio "Breeze" Balestri
President and CEO
Student Loan Express, Inc.
12680 High Bluff Drive
Suite 400
San Diego, CA 92130

Re: Retention Bonus Plan

Dear Fabrizio:

The following sets forth the terms and conditions of your Retention Bonus Plan and supersedes my letter to you dated August 22, 2005:

Retention Bonus Plan:

Should Education Lending Group, Inc. ("EDLG") achieve Cumulative Total Disbursed Loan Volume (as set forth below) of $8.5BB for calendar years 2005, 2006, and 2007, then you shall be paid the amount of $1,000,000, subject to deductions for required Federal and state tax payments and withholdings.

For purposes hereof, Total Disbursed Loan Volume ("TDLV") shall be determined each applicable calendar year period by calculating the total amount of loan volume disbursed and/or generated by all marketing channels of EDLG, including secondary market purchases through SAL, Strategic Alliances, and portfolio purchase:

Calendar Year	**TDLV Amount**	***Cumulative TDLV***
2005	$2,000,000,000	N/A
2006	$2,800,000,000	$4,800,000,000
2007	$3,700,000,000	$8,500,000,000

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central TELEPHONE NUMBER: (619) 685-6062	
PLAINTIFF(S) / PETITIONER(S): Fabrizio Balestri	
DEFENDANT(S) / RESPONDENT(S): Cit Group Inc. et.al.	
BALESTRI VS. CIT GROUP INC.	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2008-00081786-CU-BC-CTL

Judge: Yuri Hofmann

Department: C-60

COMPLAINT/PETITION FILED: 04/11/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

EX. B.

CONFORMED

INSERT STATE

COPY of

COURT ANSWER

COPY

FILED
CIVIL BUSINESS OFFICE 5
CENTRAL DIVISION

2008 MAY -9 P 2:32

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

Max C. Fischer (SBN 226003)
mfischer@sidley.com
Aimee G. Mackay (SBN 221690)
amackay@sidley.com
Brendan P. Sheehey (SBN 247156)
bsheehey@sidley.com
SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, California 90013-1010
Telephone:(213) 896-6000
Facsimile:(213) 896-6600

Attorneys for Defendants
CIT Group Inc.
Student Loan Xpress, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

FABRIZIO BALESTRI, Plaintiff, v. CIT GROUP, INC., STUDENT LOAN XPRESS, INC., AND DOES 1 THROUGH 30, INCLUSIVE, Defendants.	Case No. 37-2008-00081786-CU-BC-CTL Assigned to: Honorable Yuri Hofmann **ANSWER OF DEFENDANTS CIT GROUP INC. AND STUDENT LOAN XPRESS, INC.**

GENERAL DENIAL

Pursuant to section 431.30 of the California Code of Civil Procedure, Defendants CIT Group Inc., incorrectly identified as CIT Group, Inc. and Student Loan Xpress, Inc. (hereinafter "Defendants") deny generally and specifically each and every allegation contained in Plaintiff's unverified Complaint that relates or is directed to Defendants, or any alleged agent, servant, partner, aider and abettor, co-conspirator, joint venturer, officer, director, or employee of Defendants, and further denies that Plaintiff was injured or damaged in any way or amount or is entitled to any relief whatsoever against Defendants.

Max C. Fischer (SBN 226003)
mfischer@sidley.com
Aimee G. Mackay (SBN 221690)
amackay@sidley.com
Brendan P. Sheehey (SBN 247156)
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Telephone:(213) 896-6000
Facsimile:(213) 896-6600

Attorneys for Defendants
CIT Group Inc.
Student Loan Xpress, Inc.

ORIGINAL

FAXED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

FABRIZIO BALESTRI, Plaintiff, v. CIT GROUP, INC., STUDENT LOAN XPRESS, INC., AND DOES 1 THROUGH 30, INCLUSIVE, Defendants.	Case No. 37-2008-00081786-CU-BC-CTL Assigned to: Honorable Yuri Hofmann **ANSWER OF DEFENDANTS CIT GROUP INC. AND STUDENT LOAN XPRESS, INC.**

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SEPARATE AND ADDITIONAL DEFENSES

In setting forth the following separate and additional defenses, Defendants do not concede that they bear the burden of proof or persuasion as to any of them.

FIRST DEFENSE

(Failure to State a Cause of Action)

1. Plaintiff's Complaint, and each and every count contained therein, fails to state a cause of action or claim upon which relief can be granted against Defendants.

SECOND DEFENSE

(Statutes of Limitation)

2. The Complaint in whole or in part is barred by all applicable statutes of limitation.

THIRD DEFENSE

(Laches)

3. The Complaint and each cause of action therein is barred by the doctrine of laches.

FOURTH DEFENSE

(Parol Evidence Rule)

4. The Complaint, and each and every claim for relief therein, to the extent that it is based upon a contract, is barred pursuant to the Parol Evidence Rule.

FIFTH DEFENSE

(Statute of Frauds)

5. The Complaint, and each and every claim for relief therein, to the extent that it is based upon oral contract, is barred by the Statute of Frauds, codified at California Civil Code Section 1624.

SIXTH DEFENSE

(Breach of Obligations)

6. The Complaint, and each and every claim for relief therein, to the extent that it is based upon a contract, is barred because Plaintiff failed to perform all of the duties, obligations and conditions required under said express and/or implied contracts or agreements.

SEVENTH DEFENSE

(Excuse of Performance)

7. The Complaint, and each and every claim for relief therein, to the extent that it is based upon a contract, is barred because Defendants' performance, if any, was excused.

EIGHTH DEFENSE

(Frustration of Purpose)

8. The Complaint, and each and every claim for relief therein, to the extent that it is based upon a contract, is barred because Defendants' performance, if any, was frustrated through no fault of Defendants.

NINTH DEFENSE

(Impossibility and/or Impracticability)

9. The Complaint, and each and every claim for relief therein, to the extent that it is based upon a contract, is barred because Defendants' performance, if any, was made impossible or so extremely impracticable as to amount to impossibility through no fault of Defendants.

TENTH DEFENSE

(Mitigation)

10. Defendants allege that if Plaintiff was injured at all, Plaintiff has fully mitigated any and all damages he may have suffered, or will suffer due to any such injury.

ELEVENTH DEFENSE

(Failure to Mitigate Damages)

11. Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to mitigate alleged damages.

TWELFTH DEFENSE

(No Waiver of Defenses)

12. Defendants reserve the right to amend their answer and separate and additional defenses to conform to such facts as may be revealed in discovery or otherwise.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff takes nothing by way of his Complaint or any of his purported claims for relief;
2. That the Complaint be dismissed with prejudice in its entirety;
3. That judgment be entered in favor of Defendants;
4. That Defendants be awarded their costs of suit incurred in this action, including attorneys' fees; and
5. That Defendants be awarded such other and further relief as the Court may deem just and proper.

Dated: May 9, 2008

SIDLEY AUSTIN LLP
Max C. Fischer
Aimee G. Mackay
Brendan P. Sheehey

By: ______________________
Aimee G. Mackay
Attorney for Defendants CIT Group Inc.
Student Loan Xpress, Inc.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

08 MAY -9 PM 3:26

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

FAXED

ORIGINAL

I. (a) PLAINTIFFS
Fabrizio Balestri

DEFENDANTS
CIT Group Inc.,
Student Loan Xpress, Inc.

(b) County of Residence of First Listed Plaintiff ____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Essex County
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Michael A. Conger, 16236 San Dieguito Rd., Ste. 4-14, Rancho Santa Fe, CA 92067, (tel. 858.759.0200)

Attorneys (If Known)
See Attachment

'08 CV 0846 J JMA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☒ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sec. 1332(a); 28 U.S.C. Sec. 1441(a)
Brief description of cause:
Alleged breach of contract

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND $ 1,812,671.23
CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ____ DOCKET NUMBER ____

DATE 05/09/2008
SIGNATURE OF ATTORNEY OF RECORD [signature]

FOR OFFICE USE ONLY

RECEIPT # 15077 AMOUNT $350 — APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____

PB 05/09/08

CR

ATTACHMENT

Attorneys for Defendants CIT Group Inc. and Student Loan Xpress, Inc.:

Max C. Fischer (SBN 226003)
mfischer@sidley.com
Aimee G. Mackay (SBN 221690)
amackay@sidley.com
Brendan P. Sheehey (SBN 247156)
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Telephone:(213) 896-6000
Facsimile:(213) 896-6600

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

150771 - MB

May 09, 2008
15:25:57

Civ Fil Non-Pris
USAO #.: 08CV0846 CIVIL FILING
Judge..: NAPOLEON A JONES, JR
Amount.: $350.00 CK
Check#.: BC

Total-> $350.00

FROM: FABRIZIO BALESTRI VS
CIT GROUP, STUDENT LOAN
EXPRESS INC